

INSTRUCTIONS — PROBATE INFORMATION FORM

GENERAL: This form provides the Clerk of Court with information necessary to probate wills, and to appoint persons to carry out the terms of wills or to settle the estates of persons who have died without wills. Two other forms may also have to be filed with the Clerk. If the total value of a decedent's real and personal estate is more than \$10,000, a Probate Tax Return is necessary and, if the Clerk probates a will, or appoints an administrator or executor, a List of Heirs is also required. Copies of these forms can be obtained from the Clerk's Office. This sheet contains special instructions to help you fill out this form. If you have any question, you should telephone the Clerk. If you are unable to complete this form, the Clerk will help you. You should telephone the Clerk's Office for an appointment before you go to the courthouse. Please complete as much of this form as possible before you see the Clerk.

REQUIREMENTS FOR PROVING A WILL: The Clerk cannot probate a will until certain matters concerning its execution are proved. In many cases this evidence will be contained in a writing attached to the will that is called a "self-proving affidavit." This is a writing that follows the signatures of the decedent and witnesses to the will itself, in which, after a notary public put them under oath, the decedent and the witnesses made certain statements about the execution of the will and then the decedent, the witnesses and the notary signed the writing. If a will has a self-proving affidavit, it is not necessary for any witnesses to come to the Clerk's Office. If the will does not have this writing, then you must bring at least one of the will's witnesses with you. If a will is written entirely in the handwriting of the decedent, then no witnesses' signatures on the will are required but you must bring two persons with you to the Clerk's Office who can testify (i) that they are familiar with the decedent's writing, and (ii) that the writing on the will is that of the decedent. These two persons who will testify that an unwitnessed will is in the decedent's handwriting must be disinterested persons, i.e., not relatives, beneficiaries or relatives of beneficiaries. If a witness to the will, or to the decedent's handwriting, is not a resident of Virginia or is unable to come to the courthouse because of sickness, age, legal confinement, or other cause, that witness' testimony may be given in a deposition before a notary public. The form for such a deposition can be obtained from the Clerk.

REQUIREMENTS FOR GIVING A SURETY BOND:

Unless waived by the will or by a specific Code provision, every executor and administrator must post surety with the Clerk. This is normally done by purchasing a surety bond from an insurance company and paying for it out of estate assets. Many wills contain a provision waiving this surety bond requirement, and this waiver is effective in most cases. If the will does not waive surety, or if there is no will, the Clerk will tell you if there is a Code provision for waiver.

Line 1. Include the decedent's full name, including any aliases and the maiden name of a married woman.

Line 2. Virginia law provides that “where any person has because of advanced age or impaired health either voluntarily or involuntarily become a patient in a nursing home, a convalescent home, or a similar institution, the place of legal residence of such person shall be presumed to be the same as it was before he became such a patient; provided, however, that such presumption may be rebutted by competent evidence.”

Line 5. Be sure to bring all originals of the will and any codicils with you when you come to the courthouse.

Line 6. An administrator is the person who settles the estate of a person who died without a will. An executor does this task if there is a will nominating the executor. Sometimes no work is necessary to settle an estate under a will but the will is probated and recorded to establish the identity of the persons who receive real estate and to serve as their title to this real property.

Line 9. When a person dies without a will, a surviving spouse has the first right to serve as administrator, or to request the appointment of another person. If there is no spouse or the spouse does not wish to be involved, then any one of the takers of the decedent's estate may serve as administrator or request the appointment of another.

Line 10. This can be the same as the person making the request, or another person nominated by the requestor.

Lines 14-17. These lines are used to identify a co-administrator, or co-executor, if there is one.

Line 20. This question is concerned only with the decedent's probate estate. Thus, do not include (i) any property that the decedent owned with another with the right of survivorship, (ii) life insurance unless it is payable to the decedent's estate, or (iii) any other property passing by contract or beneficiary designation from the decedent to another person. If the total value of the decedent's property exceeds \$10,000, a Probate Tax Return must be filed with the Clerk.

Lines 21-23. These questions must be answered by the person(s) who wishes to be the administrator or executor. A “yes” answer to any of these questions does not automatically disqualify a person from serving. Each case must be decided by the court based on its specific facts.

PROBATE INFORMATION FORM

Court File No.: _____

COMMONWEALTH OF VIRGINIA

(For appointment of executor, administrator, curator, and/or probate of a will without qualification.)

Circuit Court of _____

1. Decedent's full name _____
2. ☐ Married ☐ Single ☐ Divorced ☐ Widowed
2. Decedent's Residence address at death _____
3. Date of birth _____ Date and place of death _____
4. Proof of death: ☐ Death certificate ☐ Obituary ☐ Other (specify _____)
5. The decedent died: ☐ with a will ☐ without a will.
Date of will (and codicils) _____
6. Requested action: appointment of ☐ administrator ☐ executor ☐ curator
☐ probate of will
7. Name of person making request _____
8. Mailing address _____
9. Basis for request: ☐ executor named in will ☐ spouse-distributee ☐ other distributee
☐ creditor ☐ other _____
10. Name of person seeking appointment _____
11. Day telephone _____ Night telephone _____
12. Residence address _____
13. Mailing address, if different _____
14. Name of any additional person seeking appointment _____
15. Day telephone _____ Night telephone _____
16. Residence address _____
17. Mailing address, if different _____
18. Name of assisting attorney, if any _____ Telephone _____
19. Attorney's mailing address _____
20. The total value of the decedent's real and personal estate ☐ did ☐ did not exceed \$10,000 on the date of death.

I hereby certify that to the best of my knowledge and belief this is an accurate statement of facts, and I acknowledge a continuing legal duty to report any later discovered errors or inconsistencies to the Clerk of Court.

DATE_____
PRINTED NAME OF REQUESTING PERSON_____
SIGNATURE OF REQUESTING PERSON**INFORMATION TO BE FURNISHED BY EACH PERSON SEEKING APPOINTMENT**

21. Have you ever been convicted of a felony? yes no.
22. Have you ever filed for bankruptcy? yes no.
23. Are you now, or have you ever been, an attorney at law in Virginia or elsewhere? yes
no. (If yes, and you do not now possess an active license from the Virginia State Bar,
explain the details on a separate sheet of paper.)

I (we) hereby certify that to the best of my (our) knowledge and belief this is an accurate statement of facts, and I (we) acknowledge a continuing duty to report any later discovered errors or inconsistencies to the Clerk of Court.

DATE

PRINTED NAME OF REQUESTING PERSON

SIGNATURE OF REQUESTING PERSON

DATE

PRINTED NAME OF REQUESTING PERSON

SIGNATURE OF REQUESTING PERSON